

FILED

FEB 02 2015

U.S. DISTRICT COURT-WVN  
CLARKSBURG, WV 26301

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF WEST VIRGINIA  
CLARKSBURG DIVISION

JESSICA DODD, )  
Plaintiff, )  
v. ) Case No. 115cv17  
CREDIT ONE FINANCIAL )  
d/b/a Credit One Bank, N.A., )  
Defendant. )

**PLAINTIFF'S COMPLAINT**

NOW COMES Plaintiff, JESSICA DODD ("Plaintiff"), through her attorneys, and hereby alleges the following against Defendant, CREDIT ONE FINANCIAL d/b/a Credit One Bank, N.A., ("Defendant"):

**INTRODUCTION**

1. Plaintiff's Complaint arises under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

**JURISDICTION AND VENUE**

2. Jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the conduct giving rise to this action occurred in this district as Plaintiff resides in this district and Defendant transacts business in this district.

**PARTIES**

4. Plaintiff is a natural person residing in Monongalia County, Morgantown, West Virginia.

5. Defendant is a business entity headquartered in Las Vegas, Nevada.
6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

### **FACTUAL ALLEGATIONS**

7. In 2014, Defendant began placing telephone calls to (724) 557-90xx, Plaintiff's cellular telephone.
8. Defendant called Plaintiff using telephone numbers (866) 473-4868 and (973) 796-5994.
9. Upon information and good faith belief, based on the frequency, number, nature and character of these calls, Defendant used an automatic telephone dialing system or other equipment capable of storing and/or producing telephone numbers ("auto dialer") to call Plaintiff.
10. These calls were related to a debt the Plaintiff owed or allegedly owed to Defendant.
11. These calls were for a non-emergency purpose.
12. In or around August 2014, Plaintiff instructed Defendant to stop calling.
13. Plaintiff repeated this instruction at least twice.
14. Plaintiff's husband also informed Defendant to stop calling Plaintiff.
15. Plaintiff revoked any consent, actual or implied, for Defendant to use an auto dialer to call her cell phone.
16. Defendant continued to use an auto dialer to call Plaintiff's cell phone.
17. Since October 9, 2014, Defendant used an auto dialer to call Plaintiff's cell phone at least eighty-six (86) times.

18. Defendant did not have Plaintiff's express consent to use an auto dialer to place these calls to Plaintiff's cell phone.

19. Defendant intended to use an auto dialer to place these calls.

20. Defendant voluntarily and willfully placed these calls.

**COUNT I**  
**DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT**

21. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

22. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, JESSICA DODD, respectfully requests judgment be entered against Defendant, CREDIT ONE BANK, for the following:

23. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

24. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B) and 47 U.S.C. § (b)(3)(C);

25. All court costs, witness fees and other fees incurred; and

26. Awarding such other and further relief as may be just, proper and equitable

RESPECTFULLY SUBMITTED,

By:   
Ann Marie Morelli Bar ID#: 12010  
MORELLI LAW  
Of Counsel Krohn & Moss  
3146 Main Street, Suite A  
Weirton , WV 26062  
Phone: (304) 224-2143  
Fax: (304) 224-2904  
[ammorelli@lexmail.com](mailto:ammorelli@lexmail.com)  
Attorney for Plaintiff